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7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2000-48

12 **LISA LEANNE ELLS**  
227 Avenue Des Explorateurs  
13 Aylmer, Quebec, Canada J9J 1M8

**DEFAULT DECISION**  
**AND ORDER**

14 Registered Nurse License No. 564346

[Gov. Code, §11520]

15 Respondent.


16  
17 **FINDINGS OF FACT**

18 1. On or about August 14, 2007, Complainant Ruth Ann Terry, M.P.H., R.N.,  
19 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
20 Department of Consumer Affairs, filed Accusation No. 2000-48 against Lisa Leanne Ells  
21 ("Respondent").

22 2. On or about February 29, 2000, the Board issued Registered  
23 Nurse License No. 564346 to Respondent. The license expired on August 31, 2003, and has not  
24 been renewed.

25 3. On or about August 27, 2007, Constance A. ward, an employee of the  
26 Department of Justice, served by Certified and First Class Mail a copy of the Accusation  
27 No. 2000-48, Statement to Respondent, Notice of Defense, Request for Discovery, and  
28 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record

1 with the Board, which was and is 227 Avenue Des Explorateurs, Aylmer, Quebec,  
2 Canada J9J 1M8. A copy of the Accusation, the related documents, and Declaration of Service  
3 are attached as Exhibit A, and are incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the  
5 provisions of Government Code section 11505, subdivision (c). 

6 5. On or about September 12, 2007, the aforementioned documents were  
7 returned by the Canada Postal Service marked "Moved-Addressee Unknown." A copy of the  
8 envelopes returned by the post office are attached as Exhibit B, and are incorporated herein by  
9 reference.

10 6. Business and Professions Code section 118, subdivision (b) states;

11 The suspension, expiration, or forfeiture by operation of  
12 law of a license issued by a board in the department, or its  
13 suspension, forfeiture, or cancellation by order of the board or by  
14 order of a court of law, or its surrender without the written consent  
15 of the board, shall not, during any period in which it may be  
16 renewed, restored, reissued, or reinstated, deprive the board of its  
17 authority to institute or continue a disciplinary proceeding against  
18 the licensee upon any ground provided by law or to enter an order  
19 suspending or revoking the license or otherwise taking disciplinary  
20 action against the license on any such ground.

21 7. Government Code section 11506, subdivision (c) states:

22 The respondent shall be entitled to a hearing on the merits  
23 if the respondent files a notice of defense, and the notice shall be  
24 deemed a specific denial of all parts of the accusation not expressly  
25 admitted. Failure to file a notice of defense shall constitute a  
26 waiver of respondent's right to a hearing, but the agency in its  
27 discretion may nevertheless grant a hearing."

28 8. Respondent failed to file a Notice of Defense within 15 days after service  
upon her of the Accusation, and therefore waived her right to a hearing on the merits of  
Accusation No. 2000-48.

9. California Government Code section 11520, subdivision (a) states:

If the respondent either fails to file a notice of defense or to appear  
at the hearing, the agency may take action based upon the respondent's  
express admissions or upon other evidence and affidavits may be used as  
evidence without any notice to respondent.

///

1                   10. Pursuant to its authority under Government Code section 11520, the Board  
2 finds Respondent is in default. The Board will take action without further hearing and, based on  
3 Respondent's express admissions by way of default and the evidence before it, contained in  
4 Exhibits A, B and C, finds that the allegations in Accusation No. 2000-48 are true.

5                   11. The total costs for investigation and enforcement are \$8,460.75 as of  
6 October 12, 2007, attached as Exhibit C, and incorporated herein by reference.

7                                   **DETERMINATION OF ISSUES**

8                   1. Based on the foregoing Findings of Fact, Respondent has subjected her  
9 Registered Nurse License No. 564346 to discipline.

10                  2. A copy of the Accusation and the related documents and Declaration of  
11 Service are attached hereto.

12                  3. The agency has jurisdiction to adjudicate this case by default.

13                  4. The Board is authorized to revoke Respondent's Registered Nurse License  
14 No. 564346 based upon the following violations alleged in the Accusation:

15                       a. Code section 2761, subdivision (a), unprofessional conduct,  
16 pursuant to Code section 2762, subdivision (a), in that Respondent obtained, possessed,  
17 and self-administered controlled substances and dangerous drugs.

18                       b. Code section 2761, subdivision (a), unprofessional conduct,  
19 pursuant to Code section 1762, subdivision (e), in that Respondent made false, grossly  
20 incorrect, or grossly inconsistent entries in hospital, patient, or other records pertaining to  
21 the administration of controlled substances and dangerous drugs.

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1           10. Pursuant to its authority under Government Code section 11520, the Board  
2 finds Respondent is in default. The Board will take action without further hearing and, based on  
3 Respondent's express admissions by way of default and the evidence before it, contained in  
4 Exhibits A, B, and C, finds that the allegations in Accusation No. 2000-48 are true.

5           11. The total costs for investigation and enforcement are \$8,651.75 as of  
6 October 12, 2007, attached as Exhibit C, and incorporated herein by reference.

7                           **DETERMINATION OF ISSUES**

8           1. Based on the foregoing Findings of Fact, Respondent has subjected her  
9 Registered Nurse License No. 564346 to discipline.

10          2. A copy of the Accusation and the related documents and Declaration of  
11 Service are attached hereto.

12          3. The agency has jurisdiction to adjudicate this case by default.

13          4. The Board is authorized to revoke Respondent's Registered Nurse License  
14 No. 564346 based upon the following violations alleged in the Accusation:

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16 pursuant to Code section 2762, subdivision (a), in that Respondent obtained, possessed,  
17 and self-administered controlled substances and dangerous drugs.

18               b. Code section 2761, subdivision (a), unprofessional conduct,  
19 pursuant to Code section 1762, subdivision (e), in that Respondent made false, grossly  
20 incorrect, or grossly inconsistent entries in hospital, patient, or other records pertaining to  
21 the administration of controlled substances and dangerous drugs.

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1 **ORDER**

2 IT IS SO ORDERED that Registered Nurse License No. 564346, heretofore  
3 issued to Respondent is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may  
5 serve a written motion requesting that the Decision be vacated and stating the grounds relied on  
6 within seven (7) days after service of the Decision on Respondent. The agency in its discretion  
7 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the  
8 statute.

9 This Decision shall become effective on February 29, 2008.

10 It is so ORDERED January 29, 2008

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12 *LaTranene W Tate*

13 FOR THE BOARD OF REGISTERED NURSING  
14 DEPARTMENT OF CONSUMER AFFAIRS  
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25 DOJ docket number:SA2006101238

26 **Attachments:**

27 Exhibit A: Accusation No.2000-48, Related Documents, and Declaration of Service  
28 Exhibit B: Copy of Envelopes Returned by Post Office  
Exhibit C: Certification of Costs

Exhibit A

Accusation No. 2000-48  
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Lead Supervising Deputy Attorney General  
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Facsimile: (916) 324-5567

7 Attorneys for Complainant  
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10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-48

13 **LISA LEANNE ELLS**  
227 Avenue Des Explorateurs  
14 Aylmer, Quebec, Canada J9J 1M8

**ACCUSATION**

15 **Registered Nurse License No. 564346,**

16 Respondent.

17 Complainant alleges:

18 **I.**

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
22 Department of Consumer Affairs.

23 2. On or about February 29, 2000, the Board of Registered Nursing ("Board")  
24 issued Registered Nurse License Number 564346 to Lisa Leanne Ells ("Respondent"). The  
25 license expired on August 31, 2005, and has not been renewed.  
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II.

**STATUTORY PROVISIONS**

3. Section 2750 of the Business and Professions Code ("Code") provides:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof. Code, § 2700 et seq.)]. As used in this article, 'license' includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall have all the powers granted therein."

4. Code section 2764 provides:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

5. Code section 2761 provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . . ."

6. Code section 2762 provides, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as

1 defined in Section 4022, or alcoholic beverages, to an extent or  
2 in a manner dangerous or injurious to himself or herself, any other  
3 person, or the public or to the extent that such use impairs his or  
4 her ability to conduct with safety to the public the practice  
5 authorized by his or her license.

6 . . . .

7 (e) Falsify, or make grossly incorrect, grossly inconsistent,  
8 or unintelligible entries in any hospital, patient, or other record  
9 pertaining to the substances described in subdivision (a) of this  
10 section."

11 7. Code section 4022 provides:

12 "(a) Any drug that bears the legend: 'Caution: federal law  
13 prohibits dispensing without prescription,' 'Rx only,' or words of  
14 similar import.

15 (b) Any device that bears the statement: 'Caution:  
16 federal law restricts this device to sale by or on the order of a  
17 \_\_\_\_\_,' 'Rx only,' or words of similar import, the blank  
18 to be filled in with the designation of the practitioner licensed  
19 to use or order use of the device.

20 (c) Any other drug or device that by federal or state  
21 law can be lawfully dispensed only on prescription or furnished  
22 pursuant to Section 4006."

23 8. Code section 4060 provides:

24 "No person shall possess any controlled substance, except  
25 that furnished to a person upon the prescription of a physician,  
26 dentist, podiatrist, optometrist, veterinarian, or naturopathic  
27 doctor pursuant to Section 3640.7, or furnished pursuant to a  
28 drug order issued by a certified nurse-midwife pursuant to  
Section 2746.51, a nurse practitioner pursuant to Section 2836.1,  
a physician assistant pursuant to Section 3502.1, a naturopathic  
doctor pursuant to Section 3640.5, or a pharmacist pursuant  
to either subparagraph (D) of paragraph (4) of, or clause (iv)  
of subparagraph (A) of paragraph (5) of, subdivision (a) of  
Section 4052. This section shall not apply to the possession  
of any controlled substance by a manufacturer, wholesaler,  
pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,  
veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
practitioner, or physician assistant, when in stock in containers  
correctly labeled with the name and address of the supplier  
or producer."

9. Health and Safety Code section 11173, subdivision (a), provides:

"(a) No person shall obtain or attempt to obtain controlled  
substances, or procure or attempt to procure the administration  
of or prescription for controlled substances, (1) by fraud, deceit,

1 misrepresentation, or subterfuge; or (2) by the concealment of  
2 a material fact."

3 10. Code section 125.3 provides that the Board may request the administrative  
4 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
5 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of  
6 the case.

### 7 III.

#### 8 DRUGS

9 11. "Demerol" is a Schedule II controlled substance pursuant to Health  
10 and Safety Code section 11055, subdivision (c)(17), and a dangerous drug pursuant to  
11 Code section 4022.

12 12. "Dilaudid" is a Schedule II controlled substance pursuant to Health  
13 and Safety Code section 11055, subdivision (b)(1)(K), and a dangerous drug pursuant to  
14 Code section 4022.

15 13. "Fentanyl" is a Schedule II controlled substance pursuant to Health and  
16 Safety Code section 11055, subdivision (c)(8), and a dangerous drug within the meaning of  
17 Code section 4022.

18 14. "Morphine" is a Schedule II controlled substance pursuant to Health and  
19 Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug within the meaning  
20 of Code section 4022.

21 15. "Percocet" is a Schedule II controlled substance pursuant to Health and  
22 Safety Code section 11055, subdivision (b)(1)(N), and a dangerous drug within the meaning  
23 of Code section 4022.

24 16. "Stadol" is a dangerous drug within the meaning of Code section 4022.

25 17. "Sufentanyl" is a Schedule II controlled substance pursuant to Health and  
26 Safety Code section 11055, subdivision (c)(25), and a dangerous drug within the meaning of  
27 Code section 4022.

28 18. "Vicodin, " a compound consisting acetaminophen and Hydrocodone

1 bitartrate, also known as dihydrocodeinone, is a Schedule III controlled substance pursuant to  
2 Health and Safety Code section 11056, subdivision (e)(4), and a dangerous drug within the  
3 meaning of Code section 4022.

4 IV.

5 **GENERAL BACKGROUND**

6 19. Respondent worked as a registry nurse for Pulse Health Care Staffing,  
7 (now known as World Health), and accepted a nursing assignment at Saint Dominic's Hospital,  
8 located in Manteca, California, from March 1, 2003, until May 10, 2003. Before completing her  
9 assignment, she was terminated circa April 8, 2003, when she was caught diverting medications  
10 from Saint Dominic's Hospital.

11 20. In April 2003, an audit of Saint Dominic's medication administration  
12 records revealed charting discrepancies. During the ensuing investigation, Respondent admitted  
13 that throughout the period of her employment with Saint Dominic's Hospital, she stole Fentanyl,  
14 Demerol, Dilaudid, Vicodin, and Percocet, all controlled substances and dangerous drugs, and  
15 Stadol, a dangerous drug, by falsifying patient medication administration records to reflect that  
16 those substances had been administered.

17 V.

18 **STATUTORY VIOLATIONS**

19 **FIRST CAUSE FOR DISCIPLINE**

20 **B&P §2762(a)**

21 **(Obtaining, Possessing, Self-Administering Controlled Substances/Dangerous Drugs)**

22 21. Paragraphs 19 and 20 are incorporated herein by reference. Respondent's  
23 license is subject to discipline for unprofessional conduct under Code section 2762, subdivision  
24 (a), in that from on or about March 1, 2003, until April 8, 2003, while on duty as a registered  
25 nurse at Saint Dominic's Hospital, Respondent did the following:

26 a. **Wrongfully Obtaining Controlled Substances and/or Dangerous Drugs.**

27 Respondent obtained Fentanyl, Demerol, Dilaudid, Morphine, Percocet, Vicodin, all controlled  
28 substances, and Stadol, a dangerous drug, by fraud, deceit, misrepresentation, or subterfuge, or by

1 the concealment of material facts by stealing those substances from hospital supplies, in violation  
2 of Health and Safety Code section 11173, subdivision (a).

3 b. Wrongfully Possessing Controlled Substances and/or Dangerous Drugs.

4 Respondent possessed Fentanyl, Demerol, Dilaudid, Percocet, Vicodin, all controlled substances,  
5 and Stadol, a dangerous drug, without the prescription of a physician, dentist, podiatrist,  
6 optometrist, veterinarian, or naturopathic doctor, by stealing those substances from Saint  
7 Dominic's Hospital, in violation of Code section 4060.

8 c. Wrongfully Self-Administering Controlled Substances and/or Dangerous

9 Drugs. Respondent self-administered Fentanyl, Demerol, Dilaudid, Percocet, Vicodin, all  
10 controlled substances, and Stadol, a dangerous drug, without the direction of a licensed  
11 physician, surgeon, dentist, or podiatrist.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **B&P §2762(e)**

14 **(False, Grossly Incorrect, and Grossly Inconsistent Record Entries)**

15 22. Paragraphs 19 through 21 are incorporated herein by reference.

16 Respondent's license is subject to discipline for unprofessional conduct under Code section  
17 2762, subdivision (e), in that on or about April 7, 2003, and April 8, 2003, while on duty as a  
18 registered nurse at Saint Dominic's Hospital, Respondent made false, grossly incorrect, or  
19 grossly inconsistent entries in hospital, patient, or other records pertaining to controlled  
20 substances and dangerous drugs, as follows:

21 a. Patient "A."

22 1. On or about April 7, 2003, at approximately 1920 hours, Respondent  
23 obtained one 100 mcg. dose of Fentanyl for administration to Patient "A." Thereafter,  
24 Respondent failed to document or otherwise properly account for the disposition of the 100 mcg.  
25 dose of Fentanyl in any hospital or patient record.

26 2. On or about April 7, 2003, at approximately 1955 hours, without a  
27 physician's order to do so, Respondent obtained one 50 mcg./ml. dose of Sufentanyl,  
28 for administration to Patient "A." Thereafter, Respondent failed to document or to otherwise

1 properly account for the disposition of the 50 mcg./ml. dose of Sufentanyl in any hospital or  
2 patient record.

3 3. On or about April 7, 2003, at approximately 1956 hours, without a  
4 physician's order to do so, Respondent obtained one 0.5 ml. dose of Morphine, for administration  
5 to Patient "A." Thereafter, Respondent failed to document or otherwise  
6 properly account for the disposition of the 0.5 ml. dose of Morphine in any hospital or  
7 patient record.

8 4. On or about April 7, 2003, at approximately 2015 hours, Respondent  
9 obtained one 100 mcg. dose of Fentanyl for administration to Patient "A." Thereafter,  
10 Respondent failed to document or otherwise properly account for the disposition  
11 of the 100 mcg. dose of Fentanyl in any hospital or patient record.

12 5. On or about April 7, 2003, at approximately 2030 hours, Respondent  
13 obtained one 100 mcg. dose of Fentanyl for administration to Patient "A." Thereafter,  
14 Respondent failed to document or otherwise properly account for the disposition  
15 of the 100 mcg. dose of Fentanyl in any hospital or patient record.

16 6. On or about April 7, 2003, at approximately 2129 hours, Respondent  
17 obtained one 100 mcg. dose of Fentanyl for administration to Patient "A." Thereafter,  
18 Respondent failed to document or otherwise properly account for the disposition  
19 of the 100 mcg. dose of Fentanyl in any hospital or patient record.

20 7. On or about April 7, 2003, at approximately 2225 hours, Respondent  
21 obtained one 100 mcg. dose of Fentanyl for administration to Patient "A." Thereafter,  
22 Respondent failed to document or otherwise properly account for the disposition  
23 of the 100 mcg. dose of Fentanyl in any hospital or patient record.

24 8. On or about April 7, 2003, at approximately 2340 hours, Respondent  
25 obtained one 100 mcg. dose of Fentanyl for administration to Patient "A." Thereafter,  
26 Respondent failed to document or otherwise properly account for the disposition  
27 of the 100 mcg. dose of Fentanyl in any hospital or patient record.

28 9. On or about April 8, 2003, at approximately 0258 hours, Respondent

1 obtained one 100 mcg. dose of Fentanyl for administration to Patient "A." Thereafter,  
2 Respondent failed to document or otherwise properly account for the disposition  
3 of the 100 mcg. dose of Fentanyl in any hospital or patient record.

4 10. On or about April 8, 2003, at approximately 0420 hours, Respondent  
5 obtained one 100 mcg. dose of Fentanyl for administration to Patient "A." Thereafter,  
6 Respondent failed to document or otherwise properly account for the disposition  
7 of the 100 mcg. dose of Fentanyl in any hospital or patient record.

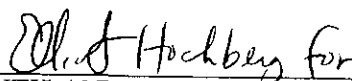
8 VI.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters  
11 herein alleged, and that following the hearing the Board issue a decision:

- 12 1. Revoking or suspending Registered Nurse License Number 564346,  
13 issued to Lisa Leanne Ells;  
14 2. Ordering Lisa Leanne Ells to pay the reasonable costs incurred by the  
15 Board in the investigation and enforcement of this case pursuant Code section 125.3; and,  
16 3. Taking such other and further action as deemed necessary and proper.  
17

18 DATED: 8/14/07  
19

20   
21 RUTH ANN TERRY, M.P.H., R.N.  
22 Executive Officer  
23 Board of Registered Nursing  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant